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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/074,155  | 02/12/2002  | Kalvin Klundt        | CA261/000CA-U         | 5048             |
| 24350   | 7590        | 12/24/2003           | EXAMINER              |                  |
| STITES & HARBISON, PLLC<br>400 W MARKET ST<br>SUITE 1800<br>LOUISVILLE, KY 40202-3352 |             |                      | MITCHELL, KATHERINE W |                  |
|   |             |                      | ART UNIT              | PAPER NUMBER     |
|   |             |                      | 3677                  |                  |

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/074,155

Applicant(s)

KLUNDT, KALVIN

Examiner

Katherine W Mitchell

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-- **Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 16, 18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 14 –15 are rejected under 35 U.S.C. 102(b) as being anticipated by Postel USP 3643467.

- Re claim 14: Postel teaches a ring (Fig 3) having a substantially flat upper surface (30, Fig 2) and a circular lower portion oriented substantially perpendicular to said upper surface and adapted to be worn by a person (Fig 3 and col 2 lines 24-26) A spring (20) is secured at a lower distal end thereof to said upper surface 30 (col 1 lines 59-68), said spring oriented essentially perpendicular to said upper surface so spring can freely move relative to said ring (Fig 2), and a coupling member (top coil of spring 20, col 1 line 72-col 2 line 9) adapted to receive and retain an object and secured to an upper distal end of said spring (the top coil is inherently secured to the upper distal end of the spring).
- Re claim 15: The coupling member defines an opening (top open coil could hold candy) capable of receiving and retaining candy.
- Re claim 17: Postel teaches a ring (Fig 3) having a substantially flat upper surface (30, Fig 2) and a circular lower portion oriented substantially perpendicular to said upper surface and adapted to be worn by a person (Fig 3 and col 2 lines 24-26) A

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spring base plate (12) is secured to said upper surface 30. A spring (20) is secured at a lower distal end thereof directly to said spring base plate (16, col 1 lines 59-68), said spring oriented essentially perpendicular to said central axis defined by said ring so spring can freely move relative to said ring (Fig 2) and said spring base plate 12, and a coupling member (top coil of spring 20, col 1 line 72-col 2 line 9) adapted to receive and retain an object and secured to an upper distal end of said spring (the top coil is inherently secured to the upper distal end of the spring).

- Re claim 19: The coupling member defines an opening (top open coil could hold candy) capable of receiving and retaining candy.

***Allowable Subject Matter/Reasons for Allowability***

3. Claims 1-13 are allowed.
4. Claims 16,18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The inclusion of direct attachment of the spring distal end to the ring in a perpendicular relationship in a combination ring and object holder is not taught or obvious over the cited prior art. Regarding claims 16 and 20, while rings with lollipops attached are known, examiner has no motivation to combine a wearable ring with a perpendicularly attached spring and a lollipop on a stick without using hindsight. Claim 18 provides additional structure not taught or obvious over the cited prior art.

***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4180.

Kwm  
12/11/2003

  
ROBERT J. SANDY  
PRIMARY EXAMINER